

STATEMENT OF REP. JOHN CONYERS, JR.
Subcommittee on the Constitution
Hearing on H.J. Res. 56, the "Federal Marriage Amendment"
May 13, 2004

So we're finally in the middle of our five-part series of hearings on whether we should pass an amendment enshrining discrimination into the Constitution. This is not only unlikely but unneeded and inflammatory.

No one seriously believes this amendment could garner the two-thirds vote it needs to pass the House. That begs the question of why we are even discussing it. To most Americans, the answer is clear: the Republican leadership wants to score political points with its right-wing base in an election year.

Motives aside, the amendment is unneeded. Each state has the right to establish its own policy on this issue. President Bush tried to galvanize conservatives by saying there is a grave risk "that every state would be forced to recognize any relationship that judges in Boston . . . choose to call a marriage." This statement is totally false, and the President knows that.

Any first-year law student can tell you that the full faith and credit clause does not force one state to recognize a marriage from another state that conflicts with the first state's public policy. In fact, perhaps we should have a first-year law student testify at these hearings.

In any event, the President misunderstands Massachusetts law. The law voids any marriage performed in Massachusetts if the couple is not eligible to be married in their home state. Even advisers to Governor Mitt Romney (R-MA) have said that out-of-state residents cannot use a Massachusetts same sex marriage to circumvent their home state laws. It is clear that a constitutional amendment is not required to accomplish the discriminatory goals of the right-wing.

The President is also wrong to argue that Congress has been forced into this position by "activist judges." Anyone who has followed this knows

that those in San Francisco, Portland, and New York who have pressed this issue are elected officials, not judges. As a matter of fact, it is judges in California who have stopped the licenses from being issued.

It goes without saying that this amendment is beyond inflammatory. This Subcommittee has done nothing about preventing hate crimes, preserving the right to vote in a presidential election year, or ensuring women have the right to health care. Instead, we are wasting five days on trying to take a basic right away from committed couples.

In closing, this amendment would, for the first time in our nation's history, write intolerance into our Constitution. We have debated civil rights issues before, but those issues were about ending slavery, liberating women, safeguarding freedom of religion, and protecting the disabled. As you can see, those were all efforts to eradicate discrimination. Leave it to the Bush Administration to buck the trend and actually try to legalize discrimination.